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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

ANA G.,  
Petitioner,

v.

THE SUPERIOR COURT OF THE CITY  
AND COUNTY OF SAN FRANCISCO,

Respondent;  
SAN FRANCISCO HUMAN SERVICES  
AGENCY et al.,  
Real Parties in Interest.

A155729

(San Francisco City and County  
Super. Ct. No. JD17-3178)

Ana G. (Mother) is the mother of Jeremiah G., a 12-year-old dependent of the juvenile court. Mother filed a petition seeking review by extraordinary writ of an order terminating reunification services and setting a Welfare and Institutions Code section 366.26 hearing.<sup>1</sup> We deny Mother's petition and her request for a stay of the section 366.26 hearing.

**BACKGROUND**

*Dependency Petition and Detention Hearing*

In July 2017, 11-year-old Jeremiah ran away from home, reporting he feared Mother and did not wish to return home because she hits him with a belt and, on the day he left, had thrown a chair against the wall. Police officers and the social worker

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

observed scars and bruising on Jeremiah's chest, which he reported was caused by Mother hitting him with a belt, including the metal buckle, a month before. Mother told police "men" and other "people" were persuading Jeremiah to be "bad" and made other incoherent statements. She was arrested for child endangerment (Pen. Code, § 273a, subd. (a)).

The San Francisco Human Services Agency (Agency) filed a dependency petition on Jeremiah's behalf, pursuant to section 300, subdivisions (a), (b)(1), and (g). The petition alleged Jeremiah was at substantial risk of serious physical harm due to Mother's long-term use of inappropriate physical discipline. It was further alleged she had mental health needs requiring assessment and treatment, and the identity and whereabouts of Jeremiah's father were unknown.

Mother admitted hitting Jeremiah with a belt for discipline but denied having any mental health diagnoses. At the detention hearing, Jeremiah was detained in foster care and therapeutic visitation was ordered. The juvenile court granted the Agency discretion to move to supervised visits when "[Jeremiah] is ready and willing."

#### *Jurisdiction/Disposition Report and Hearing*

In the combined jurisdiction and disposition report, the Agency noted the criminal child endangerment charges against Mother had been dropped. Mother admitted hitting Jeremiah with a belt in the past but denied hitting him on the chest or using other objects. She attributed bruising on Jeremiah's chest to eczema. Jeremiah told the social worker he was afraid of Mother, who had hit him with a belt "for as long as he can remember" and for no apparent reason. Mother told him, "God wanted her to hit him."

The maternal grandmother corroborated Jeremiah's account, saying she tried repeatedly to intervene with no success. Mother was arrested in 2015 for assault on the maternal grandmother's husband. Although Mother continued to deny "anger issues" or mental health concerns, she was open to a mental health assessment and exploring anger management in therapy.

Jeremiah reported feeling safe with his foster parent and being "happy with only having phone calls once a week with [Mother] for the time being." The social worker

believed family therapy was necessary for Jeremiah to deal with the trauma he had suffered and resulting anxiety.

The social worker recommended family reunification services for Mother, including parenting classes, individual and family therapy, completion of a psychological evaluation, and compliance with treatment recommendations. In order to reunify, Mother needed to demonstrate her ability to discipline Jeremiah without using physical punishment, guilt, or scare tactics, and she needed to improve communication skills to rebuild trust. By September 5, 2017, the Agency had provided Mother with referrals for therapeutic visitation, welfare supports, and mental health counseling, but Mother had been unable to attend a meeting involving the latter two referrals. Mother and Jeremiah had been assessed to begin therapeutic visits. Jeremiah felt “not ready” for supervised visits with Mother and, until therapeutic visits began, they had supervised weekly phone calls.

The jurisdiction hearing was continued for a settlement conference and mediation. Ultimately, Mother submitted on the allegations of the amended petition, which the juvenile court found true. Jeremiah was adjudged a dependent child and removed from parental custody. The juvenile court also adopted the Agency’s proposed reunification case plan and ordered continuation of therapeutic visits, granting the Agency discretion to move to unsupervised visits.

#### *Six-Month Review Report and Hearing*

In February 2018, the Agency filed its six-month review report, which indicated Mother, despite having completed a parenting class, was unable to verbalize or demonstrate any new anger management skills. She continued to blame Jeremiah for the dependency. Mother asked for and was referred to another parenting class. She completed a psychological evaluation and attended weekly individual therapy, but she refused to acknowledge any wrongdoing. She participated in therapeutic visits with Jeremiah. However, during a recent visit, Mother verbally and physically threatened the therapist, further triggering Jeremiah’s anxiety. Mother blamed the therapist and did not take any responsibility for her behavior. The Agency was seeking a new therapist to

facilitate therapeutic visitation. In the interim, Mother and Jeremiah had weekly supervised visits.

Jeremiah had recently changed foster care placements. His new foster mother reported he was “well behaved and easy to get along with.” Jeremiah told her “he never wants to return home” because “he is afraid of [Mother].” When informed of this statement, Mother dismissed Jeremiah’s fears and accused him of manipulating the situation. The Agency recommended reunification services be continued for up to six months.

In March 2018, the Agency filed an addendum report, and a request to change a court order (§ 388) was filed in April. The social worker reported Mother recently requested a new individual therapist, stating her refusal to work with the originally assigned therapist. Due to a recent escalation in Jeremiah’s anxiety and his statements he never wanted to return to Mother’s custody, the Agency recommended terminating reunification services and setting a section 366.26 hearing.

At the six-month review hearing, the Agency withdrew its section 388 petition and Mother withdrew her request for a contested hearing. Reunification services were continued until the 12-month review hearing, and therapeutic visitation was continued as previously ordered. The juvenile court also found the Agency had provided reasonable services.

#### *Twelve-Month Review Report and Hearing*

A contested 12-month review hearing was held on October 30, 2018. In advance of that hearing, the Agency filed several status reports. In July 2018, Jeremiah was placed in a “fost-adopt” home where he reported being “happy.” He had recently described a memory of Mother putting him in a choke hold and telling him, “I am going to kill you.”

The social worker reported Mother attended four individual therapy sessions with a new therapist and completed a second parenting class, but she declined to take psychotropic medication recommended by a psychiatrist. The maternal grandmother had witnessed no change in Mother’s behavior.

Mother made some progress in communicating with Jeremiah during therapeutic visits, led by another new clinician, but she continued to blame Jeremiah for her actions. In particular, the family therapist reported on a recent visit, during which Mother blamed Jeremiah for her physical abuse, stating “she was afraid [Jeremiah] was going to hit her” because “he was a ‘rebellious’ child.” In response, Jeremiah broke down in tears, requested to leave the room, and needed 35 minutes alone with the therapist to calm down. Immediately thereafter, Jeremiah stated he did not want further visits with Mother. When the family therapist shared this with Mother, Mother blamed the therapist, accusing her of being “unprofessional.”

Due to Mother’s continuing denial, the Agency recommended termination of reunification services. The Agency also filed another request to change court order (§ 388), seeking termination of court-ordered visitation. Visitation was suspended pending a contested hearing on the section 388 petition and 12-month status review.

At the contested hearing, Mother’s counsel argued the Agency had not met its burden to show reasonable services were offered and visits should continue. Counsel for Jeremiah supported the Agency’s recommendations with respect to termination of services and visitation. Testimony by the social worker and family therapist was consistent with the reports’ summaries. Most importantly, the family therapist testified that, on August 8, 2018, Jeremiah was observed to disassociate when blamed by his Mother for her violence. “He was not blinking, his breathing was intensified, and tears were just coming down his cheeks.” Although he agreed to one final visit on August 15, Jeremiah refused to attend therapeutic visits between August 29 and October 16, 2018. The family therapist opined it could be traumatic to continue visitation.

Mother also testified. She had not visited with Jeremiah since August 2018. As she described the August 8 session, Jeremiah “had an emotional breakdown” that was the family therapist’s fault. Mother complained the therapist’s early end to the August 8 session “caused [her] stress.” When asked about her understanding of why her physical discipline was inappropriate, Mother testified: “I understand now that physical discipline was not enough, . . . I’m being accountable. It’s not the appropriate way to bring up a

child. . . . [¶] [V]ery clear communication . . . is more effective than hitting. . . . [I]t's something that I learned . . . as a parent. I meant well. I didn't mean to harm my son. Didn't like it and didn't do it often, but I did it. And I'm not going to do it again."

The juvenile court found Mother made "unsatisfactory" progress on her case plan, return of Jeremiah to Mother's custody would create a substantial risk of detriment, there was no substantial probability Jeremiah would be returned to parental custody within six months, and reasonable reunification services had been provided. Reunification services were terminated; a section 366.26 hearing was set for February 27, 2019; and Mother's visits were terminated as detrimental. This writ proceeding followed.

### **DISCUSSION**

Reunification services are generally limited to 12 months in cases, like this one, where the child was over the age of three years when removed from parental custody. (§ 361.5, subd. (a)(1)(A); *In re J.P.* (2014) 229 Cal.App.4th 108, 121.) "At each review hearing, if the child is not returned to the custody of his or her parent, the juvenile court is required to determine whether reasonable services . . . designed to aid the parent in overcoming the problems that led to the initial removal and the continued custody of the child have been offered or provided to the parent . . . (§ 366.21, subds. (e), (f).)" (*J.P.*, at p. 121.) At the 12-month review, the juvenile court may not set a section 366.26 hearing unless it finds, by clear and convincing evidence, reasonable services were offered. (§ 366.21, subd. (g)(4).)

#### **A.**

##### *Reasonable Services*

Mother challenges the sufficiency of the evidence supporting the juvenile court's reasonable services finding. We review such claims for substantial evidence, bearing in mind the clear and convincing evidence burden of proof. (*T.J. v. Superior Court* (2018) 21 Cal.App.5th 1229, 1238.) "Substantial evidence is that which is reasonable, credible and of solid value." (*Ibid.*) "[T]his court must view the evidence in a light most favorable to the respondent." (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

“It is the job of a [social worker] to assist parents with inadequate parenting skills in remedying the sources of the problem, not to eradicate the problem itself. . . . [¶] . . . A proper service plan must be tailored to the specific needs of the dysfunctional family. However, to make the requisite findings, the record should show the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult (such as helping to provide transportation and offering more intensive rehabilitation services where others have failed).” (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) In determining whether services were reasonable, the juvenile court considers not only the appropriateness of the services offered but also the extent to which the agency facilitated utilization of the services and the extent to which the offending parent availed him or herself of the services provided. (*Ibid.*) “The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*In re Misako R.*, *supra*, 2 Cal.App.4th at p. 547.)

“[A parent’s] difficulty meeting the case plan’s requirements does not excuse the agency from continuing its efforts to bring [the parent] into compliance with the court’s orders.” (*In re Taylor J.* (2014) 223 Cal.App.4th 1446, 1451.) Part of that responsibility is the “duty ‘to maintain adequate contact with the service providers and accurately to inform [the parent] of the sufficiency of the enrolled programs to the meet the case plan’s requirements.’ ” (*Id.* at p. 1452.) However, reunification services are voluntary and cannot be forced on an unwilling parent. (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1233.) “ ‘The requirement that reunification services be made available . . . is not a requirement that a social worker take the parent by the hand and escort him or her to and through classes or counseling sessions.’ ” (*In re Christina L.* (1992) 3 Cal.App.4th 404, 414–415.)

Here, the Agency identified Mother’s untreated mental health and anger management issues at the outset, as well as the trauma suffered by Jeremiah, and

provided resources to address these concerns. The social worker also referred Mother to welfare assistance, provided transportation assistance, and made extensive efforts to overcome the difficulties encountered.

Mother focuses on referrals to anger management classes, which she asserts were not made until June 2018, and the Agency's purportedly delayed efforts to help Mother transition to a new individual therapist at the South of Market Clinic. Mother was initially referred to parenting classes and individual therapy, which was to address anger management, in September 2017. Mother and Jeremiah were referred to family therapy shortly after detention.

In approximately March 2018, after completing her psychological evaluation, Mother refused to work with her first individual therapist, reportedly because the therapist found Mother evasive and defensive. In response, in May 2018, the social worker referred Mother to the South of Market Clinic because it had no waitlist and offered the type of therapy recommended by Mother's psychological evaluation. At the time of the referral, the social worker instructed Mother the Agency could not share her psychological evaluation without a signed waiver. Instead of promptly signing a waiver, Mother told the clinic director she needed a therapist who would "deem her a good mother." The social worker followed up by contacting the clinic and reminded Mother about the waiver. After signing it a week or two later, Mother rescheduled her first appointment several times and finally began therapy again in July 2018. Thus, Mother complains of delay that was completely within her control. She could have avoided any delay had she simply fully engaged in therapy with her first therapist. The Agency responded reasonably by providing Mother with an alternative referral.

The record is not clear regarding when Mother was first referred to anger management classes. However, the precise date of such a referral is not important because, as the Agency points out, Mother was never required to take anger management classes as a separate requirement of her case plan. She was required to address anger management *in therapy*. The Agency cannot be faulted for offering additional resources when it became apparent Mother was not fully engaging in therapy.



The record demonstrates the Agency identified the problems leading to removal, offered services designed to remedy those problems, maintained reasonable contact with Mother, and made reasonable efforts to assist Mother in areas where case compliance proved difficult. (See *In Riva M.*, *supra*, 235 Cal.App.3d at p. 414.) The record supports the juvenile court’s reasonable services finding.

## **B.**

### *Visitation*

Mother also contends services were unreasonable because the juvenile court and the Agency improperly allowed Jeremiah to veto visitation. “ ‘An obvious prerequisite to family reunification is regular visits between the noncustodial parent or parents and the dependent children “as frequent[ly] as possible, consistent with the well-being of the minor.” ’ ” (*In re S.H.* (2003) 111 Cal.App.4th 310, 317.) Thus, during the reunification period, visitation is mandatory absent exceptional circumstances, and the court may not delegate its power to decide whether any visitation shall occur. (§ 362.1, subd. (a)(1)(A); *S.H.*, at p. 317.)<sup>2</sup> Even after termination of reunification services, visitation is required pending the section 366.26 hearing unless visitation would be detrimental to the child. (§ 366.21, subd. (h); *In re David D.* (1994) 28 Cal.App.4th 941, 954.) However, “parental visitation may be denied during the reunification period if such visitation would be inconsistent with the physical or emotional well-being of the child.” (*In re Matthew C.* (2017) 9 Cal.App.5th 1090, 1094.)

“[A] visitation order granting the Department *complete* and *total discretion* to determine whether or not visitation occurs would be invalid.” (*In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1237.) “[T]he power to decide whether any visitation occurs

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<sup>2</sup> Subdivision (a) of section 362.1 provides, in pertinent part: “In order to maintain ties between the parent . . . , and to provide information relevant to deciding if, and when, to return a child to the custody of his or her parent . . . , any order placing a child in foster care, *and ordering reunification services*, shall provide as follows: [¶] (1)(A) Subject to subparagraph (B), for visitation between the parent . . . and the child. Visitation shall be as frequent as possible, consistent with the well-being of the child. [¶] (B) *No visitation order shall jeopardize the safety of the child.*” (Italics added.)

belongs to the court alone.” (*In re S.H.*, *supra*, 111 Cal.App.4th at p. 317, italics omitted.)

Mother contends the juvenile court erred by allowing Jeremiah “to veto” visits. However, up until October 16, 2018, the juvenile court had ordered weekly therapeutic visitation. Although her argument is somewhat difficult to understand, Mother appears to complain the social worker, in the final six months of reunification, did not make reasonable efforts to facilitate those visits.

Knowing visitation was key to reunification, the Agency bent over backwards in an attempt to make family therapy work, despite Jeremiah’s stated fear of Mother and the interruption caused by Mother’s threatening behavior towards the first therapist. After the first therapeutic relationship was severed, which again negatively impacted Jeremiah, the social worker referred Mother and Jeremiah to a second family therapist, provided supervised visits while new arrangements were made, and assisted with transportation to visits with the new family therapist.

The tenuous balance only fell apart when, in a purportedly safe therapeutic space, Mother retraumatized Jeremiah by blaming him for her physical abuse. Even after the August 8, 2018 visit, the Agency continued to facilitate therapeutic visitation. After a visit on August 15, however, Jeremiah declined to attend. The social worker arranged a supervised phone call between the two on August 21, at which time Jeremiah stated his request to cease contact. The Agency had no control over Mother’s behavior and no way to “force” Jeremiah to visit. At this point, Mother could have petitioned the court for enforcement or modification of the visitation order. (§ 388; *In re Hunter S.* (2006) 142 Cal.App.4th 1497, 1505–1506.) But she did not. Instead, in early October, the Agency properly filed a section 388 petition, seeking to terminate visitation.

To the extent Mother challenges the October 2018 ruling on the section 388 petition, which terminated visitation, we review the order for abuse of discretion. (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2006) 145 Cal.App.4th 692, 699, fn. 6.)

While therapeutic visitation was previously deemed sufficient to protect Jeremiah, the juvenile court was not barred from later determining the psychological trauma of continued contact with Mother had become detrimental. (See *In re Daniel C. H.* (1990) 220 Cal.App.3d 814, 838–839 [juvenile court did not abuse discretion in terminating parental visitation when evidence showed child “was under great stress because of the alleged molest” and never wanted to see parent again]; *In re Danielle W.*, *supra*, 207 Cal.App.3d at pp. 1238–1239 [reasonable for juvenile court to order visitation only as requested by children when mother had not protected children from sexual abuse by stepfather, children remained traumatized, and did not wish to visit mother].)

Here, the juvenile court relied on the family therapist’s opinion continued visitation was emotionally harmful, as well as 12-year old Jeremiah’s repeated statements he no longer wished to visit Mother. The ultimate supervision and control of visitation remained with the juvenile court. Mother has shown no abuse of discretion. Nor has she demonstrated the juvenile court’s reasonable services finding is unsupported.

#### **DISPOSITION**

Mother’s writ petition is denied on the merits. The request for a stay is also denied. Because the section 366.26 hearing is set for February 27, 2019, our decision is final as to this court immediately. (Cal. Rules of Court, rules 8.452(i), 8.490(b)(2)(A).)

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BURNS, J.

WE CONCUR:

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JONES, P. J.

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SIMONS, J.

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